

# LIFE OF FOSTER WAS THREATENED BY FLOYD ALLEN, LEADER OF CLAN

(Continued from First Page.)

the sons, fired the first shot, striking the martyred and unarmed Judge Thompson Massie.

Of course, it was the prosecution's day, since the defense has as yet had no opportunity save in cross-examination. It must be admitted that the actual shooting of Commonwealth's Attorney Foster by Floyd Allen has not been shown, and unless it is demonstrated by future evidence, the Commonwealth must rely on the allegations of conspiracy, which, if proven, will make the prisoner guilty of all the murders, and of that premeditation as well which makes the crime murder in the first degree. So far, the indications of conspiracy rest upon the position of the Allen in the court room, and upon the threats made by Floyd Allen in advance that he would cause trouble in the event of his conviction.

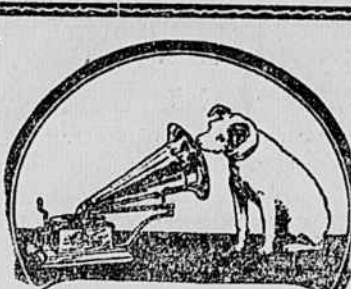
Judge D. W. Bolen made a clear and definite and well-considered statement. He told just what he saw in the court room. His evidence would seem, must stand, and would stand, unless the Commonwealth's Attorney Foster, the murder of Judge Massie. But by itself it is insufficient so far as Floyd Allen is concerned.

Hardly, indeed, was a Virginia court room been the scene of such a vigorous arraignment and exhortation as was visited upon the Allen by Joseph C. Wyser, leading counsel for the prosecution, in his opening statement to the jury. In behalf of an injured Commonwealth, he asked for the conviction of Floyd Allen and his partners in crime. Eloquent and compelling he was, and when he took his seat, the crowd in the court room gave that rapt which signifies release from a nervous tension. Throughout the terrible onslaught of Mr. Wyser, Floyd Allen sat with eyes averted, with face troubled and turbulent. The opening statements came at the morning session, just after Deputy Clerk John H. Hurt had charged the jury as to its rights in the case. He described the various sorts of punishment which may be meted out.

**Crime Must Be Averted.** Called upon by his country, said Mr. Wyser, together with his colleagues, to restore the dignity of outraged justice, the State would soon realize that the law was triumphant. The crime, he added, in words which rang out over the hush of the court room, was done "at the hands of ruffians, outlaws and cold-blooded assassins," and should be averted.

In vain did Mr. Willis, for the defense, protest against this sort of language, Judge Staples permitting it to go before the jury. The attorneys for the prisoner excepted.

Continuing, Mr. Wyser characterized



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this affair as one of the most dastardly, outrageous and atrocious crimes in the annals of the world. It was done, he said, following the threats made by Floyd Allen, uttered even on the day preceding the crime.

Some attention was given to the law of conspiracy. If such confederation is shown, he said, it makes each participant the agent of all the others. It can be shown that the time, the place, the motive and the means concur, he asserted, to prove that the accused men conspired "to shoot up the court, to shoot down the law. How foolish," he commented, "the law cannot be shot down. Should Judge Massie be shot, another would take his place. Should the Commonwealth's Attorney, the humble speaker, who addresses you, be killed, others would arise, and so on until the crack of doom."

When the shooting occurred, pursued Mr. Wyser, three of the indictments were still pending in Carroll county against Floyd Allen. Two were pending against Sidney Allen, two against Sidney Edwards, two against Wesley Edwards. Another exception was noted against this statement.

**Armed Clan Was There.** All the clan was there with weapons, asserted Mr. Wyser. Claude Allen fired the first shot, against Judge Massie, who could never have harmed him. Fred Allen fired his weapon. Dexter Good drew a pistol, but was shot before he fired. No officers fired, said Mr. Wyser, until after Floyd Allen had discharged his pistol. As a matter of fact, there is much doubt as to whether W. M. Foster or Sheriff L. F. Webb ever fired at all.

The shooting of the jurors was dwelt upon, including the oath hurled in the street with shots at Judge Massie. Edwards, it was charged, fired on the court green. Floyd Allen was said to be guilty of eleven felonies because of the conspiracy—five deaths and six wounding.

Referring to Sidney Allen and Wesley Edwards, still at large, Mr. Wyser said they will find that while justice may travel with a leaden heel, she strikes with an iron hand. The prisoner was denounced as the arch-conspirator, the man who planned the offense and began its execution.

"His native hills," concluded the prosecutor, "will never see him again. Those mountains and vales and pleasant streams in Carroll county will know him no more forever, and that

force which man has harnessed and made do his will, will chase Floyd Allen forever from the face of this earth.

**Intimation of Defense.** For his part, R. H. Willis made a statement in behalf of the prisoner which was regarded as illuminating in showing the plans of the defense, and which was forcefully delivered. He felt in the beginning, he said, just as Mr. Wyser felt. But since looking into the matter, he believed the prisoners had been grossly wronged. He paid his respects to the press, which he said felt it incumbent to create daily sensations for the public.

According to Mr. Willis, Floyd Allen possesses a beautiful character. He was pictured as a quiet and peaceful and desirable citizen, living the simple life in his beautiful little home on the southern slope of the Blue Ridge. He described the affair in which the Edwards boys were engaged as a misdemeanor. Their release by Floyd Allen, he said, was done in a fit of indignation at their treatment, and the prisoner indicated himself, Floyd would have skipped his bail and left the country, he believed, rather than have dragged his own boys into an affair of this kind by previously planning.

Among the points which the defense will endeavor to show, according to Mr. Willis, are that Floyd Allen agreed with Judge Bolen, his attorney, that he would go to jail if convicted; that he was arranging for more witnesses to justify his plea for a new trial; that of the courthouse shooting, that members of the clan had put money in the Hillsville Bank on the preceding day, that not enough cartridges were taken to allow reloading; that Clerk Good and Deputy Clerk Quisenberry were prepared for trouble, having automatic pistols.

The real point made was that Dexter Good drew his pistol first of all, that this caused Floyd Allen's decision and remark, and that Sheriff Webb drew his pistol before Floyd did. It was Mr. Willis' theory that Mr. Foster was killed by a bullet from behind the bar.

Baldwin detectives were charged by the defense with having made people in the mountains stop talking, and with thereby hampering the prisoners in their case.

**Bolton Is First Witness.** Judge D. W. Bolen was the first witness. He was heard with the utmost respect, and made an ideal witness. After his testimony was concluded, he was not required to leave the courtroom, but out of respect to his standing as an attorney and as a leading citizen of Virginia, he was invited to remain and listen to the proceedings. His evidence differs little from the first and uniform reports of the shooting. Succinctly, it is as follows:

"Floyd Allen had been on trial since Tuesday of the week of the shooting, which was on March 14. On Thursday morning the jury found him guilty of releasing Wesley Edwards from the custody of Deputy Sheriff T. F. Samuels and gave him one year in the penitentiary. The verdict was not in proper form, and Judge Massie dictated a correction, which Mr. Foster made, stepping outside of the bar to do so. A motion was made for a new trial, and it was decided to hold the trial the following day. Then a renewal of bail for Floyd Allen was applied for and refused, Judge Massie saying it was not the custom in Virginia. Claude Allen was called to the bar and consulted about advances in regard to the motion.

"Judge Massie instructed the sheriff to take charge of the prisoner. Mr. Webb stepped to the entrance of the bar. Floyd Allen hesitated, arose, then said something I could not understand in the manner of a man who had made up his mind just what he would say. At last he said audibly: 'I just tell you I ain't a-goin' then he began leisurely to open his sweater. I thought for a moment he intended to jump over the bar and walk out. I saw the gleam of a pistol, and turned to see if I could secure the aid of others to prevent him from doing anything he ought not to do. I saw Victor Allen; he was making no demonstration of any sort. Then I looked at Claude Allen. He was standing on the bench close to the door of the judge's private room. Just as I saw him he fired, the range being at Judge Massie. I looked at the judge and saw him shiver and begin to turn around. The second shot came from a man near Claude, and then I saw Judge Massie begin to sink down.

**Open Fire on Officers.** "A moment later Sidney Allen and Claude Allen advanced to a point between the bench and bar, and opened fire on the officers of the court, who were standing near the clerk's desk. Some of the officers returned the shots. Firing began from behind the bar on the north side, and I began to be concerned about my own safety, so I dropped over on the floor. In a moment Floyd fell on top of me, and then rolled over by my side. I had the impression at first that he was dead.

"As I told you, I could not shout: 'Don't shoot here any more,' but the firing increased. Twice I said to Floyd: 'They will kill me shooting at you.' Floyd then jumped up and fired once or twice, I think twice, at the men who were shooting. I hadn't seen him shoot before that. The only man I saw shoot was Judge Massie.

"When the firing ceased and the crowd left I went to the aid of those stricken. Judge Massie said he was dying, and I went for doctors. I returned and found the sheriff dead. Mr. Foster lying, Jurors Cain and Fowler wounded. Others began to come in and take charge, and this ended my part in the affair."

Replying to questions on cross-examination, Judge Bolen said that Sidney Edwards had been sent for during Floyd Allen's trial, having been brought to court from his sick bed by Victor Allen. Floyd, he said, had been reluctant to send for Sidney Edwards because he had been ill. There was no demonstration by Floyd when the motion for bail was overruled. At that moment Judge Bolen said to the prisoner:

"Now, Floyd, accept this situation like

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a man. A brighter day will come for you."

"Oh, I'm going to take it calm," was the reply, "but I hate it on account of my two boys."

There was nothing to show rebellion or conspiracy, so far as Judge Bolen had seen. He did not think Sidney Edwards had an opportunity to shoot in the courthouse. A shot aimed at Dexter Good, he thought, would range within three feet of the judge, from where Claude Allen stood, supposing the clerk to have been at his desk, but the clerk's quarters were raised off.

**Thinks Floyd Fired Twice.** After the adjournment for lunch Judge Bolen resumed the stand, and on redirect examination he said that he thought Floyd Allen shot twice after he arose from the floor. The witness claimed his attorney's privilege as to his conversations with Floyd during the latter's trial on the charge of interfering with an officer. While, partly deaf, he absolutely saw Claude Allen fire the first shot and saw Judge Massie stricken with it. He still hoped, he said, to restrain Floyd until he saw Claude firing.

Dr. C. R. Nuckolls was the next witness. He had attended Mr. Foster, who lived only three or four minutes after the physician arrived. He was shot in the head and elsewhere. Judge Massie bled internally and lived fifteen minutes. Juror C. C. Cain was wounded in the back or abdomen, there being a doubt in the witness's mind as to where the bullet entered. Foster was shot in the head, and lived for two days.

The cross-examination was mainly

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directed to showing that Dr. Nuckolls' memory might be at fault as to the location of Mr. Foster's wounds, and was unproductive.

**Threatens to Kill Foster.** S. E. Weddies next on the stand, heard Floyd Allen say in the Monday before shooting, "I will kill Bill Foster before the sun goes down tomorrow night if I am convicted."

Witness said his relations with Floyd were entirely friendly. He was also friendly with Dexter Good, and has helped the latter in his campaigns. The defense tried hard to show that this witness was entirely unreliable, but he stuck to his statement.

Last December T. S. Coulson, the next witness, heard Floyd Allen say to Sanders McMillan "I can't get a fair trial, and if they fool with me I will make the biggest hole in that courthouse any man ever made."

McMillan, according to Coulson, said that was the last thing Floyd said, but the prisoner had insisted that he would do it. The defense was unable to make Coulson vary his assertion.

E. N. Cooley, superintendent of the public schools of Carroll, had heard Floyd Allen say that he learned Foster had written a letter to a prosecuting attorney in North Carolina. A man had shot at Floyd, and Foster is said to have made the statement that if this man had killed Floyd it would have saved him (Foster) the trouble of doing so. Floyd told Mr. Cooley that Foster had denied writing this letter, and that one of them would die if Foster was the author. Later Floyd Allen told the witness that he had seen the letter, and had gone to Hillsville to see Foster but that the latter and left his office. The defense sought to show that the two men had made friends at Foster's home.

**Early Saw Floyd Shoot.** Juror James N. Early, the next witness, was one of the men who convicted Floyd Allen. He saw Floyd stand up and heard him say, "I won't stand for it." Shots came from both sides, and Mr. Early was under the impression that the first came from about where Wesley Edwards was standing. He saw Floyd shoot, but could not tell who he fired at. He waived his gun, and had it aimed in the general direction of W. M. Foster.

Mr. Early went to the street as soon as he could and there met Floyd Allen. The latter shouted, "there goes one of those damned rascals. I'll go and shoot him," and fired at the juror, who fled down the street.

Some time was spent in demonstrating the positions of the court and the jury, blue prints being used.

Mr. Early was positive that Floyd Allen began to get his pistol before any shots were fired.

W. N. Nestor, the last witness, was also a jurorman. His version of Floyd Allen's remark was, "Gentlemen, I ain't a goin'." Two or three shots were fired from the entrance to the judge's room, and then Floyd shot three or four times toward Foster, although the witness could not say that this was the manner in which the Commonwealth's Attorney received his fatal wound. Mr. Nestor will take charge of his new duties on May 10.

**NEGRO BURIED ALIVE**

Slightly Hurt by Cave-In While at Work on Sewer.  
John Winston, colored, while at work on the sewer at the end of St. Peter Street yesterday morning, was buried under six feet of earth. Hearing his cries, other men working on the sewer went at once to his rescue and succeeded in unearthing him before he suffered serious injury. He was unconscious on the arrival of the city ambulance, but was quickly revived by Dr. Watts. His hurts were slight and he was able to go to his home, 313 S. 2nd Street, at 4 o'clock yesterday afternoon. Dr.

## Next Sunday The Times-Dispatch

Here are some of the attractive features which will be offered to its readers next Sunday:

By Molly Elliot Seawell.

### The Great Cardinal

A story full of color, built in the romantic atmosphere of the north shores of England centuries ago, when knights were bold and love was often a question of swordsmanship.

By Harriet Prescott Spofford.

### The Silk Dress

Not quite a tragedy, and yet bordering so close to it that the sudden angle which surprises the reader seems very much like the good old-fashioned melodrama.

### Ellis Parker Butler

in one of his funny skits,

### Gummy Squires and the Curse of Wealth

Mr. Butler certainly knows how to spin the arrow on the laugh meter. This is one of his good ones, too.

Wonderfully interesting articles by CARPENTER and by WATKINS.

The "DOOLEY" page (if he feels in the humor). SHORT STORIES and features; Society at home and abroad.

Gossip of Foreign Capitals by cable. SPORTS in all branches, over the special sporting wire of The Times-Dispatch.

A great INDUSTRIAL SECTION, telling of the growth and opportunities of this section of the United States.

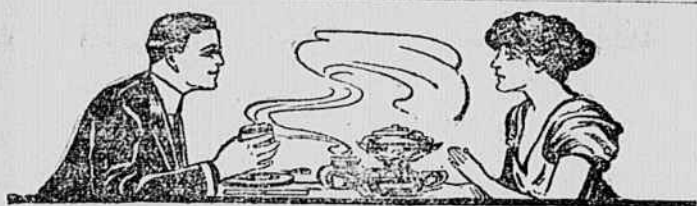
COLORS, COMICS, CHILDREN'S PAGES. GENEALOGY, telling who's who. CONFEDERATE SECTION.

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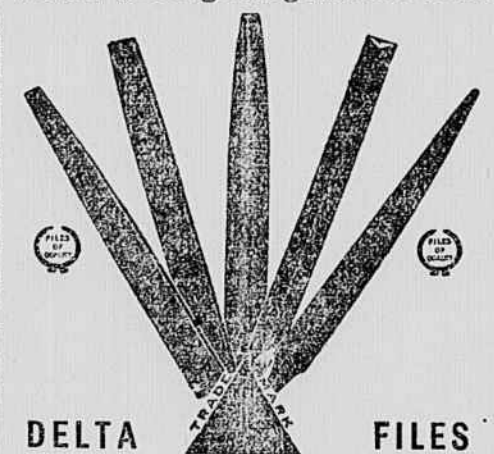


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Watts was called to attend Fred H. Falson, 1905 East Main Street, who was severely kicked by a horse at F. A. Smith's stable, 14 South Tenth Street. Falson was struck by the head of the horse's shoe on the shoulder. The skin was broken and some ligaments partly torn, but no bones were broken. He was carried home by the ambulance.

**GETS \$1,000 FEE**  
Corporation Commission Issues Charter to The State Corporation Commission yesterday collected another \$1,000 fee when a charter to do business in Virginia was granted to a foreign corporation, the Thompson-Starratt Company, of New York, with a capital stock of \$200,000. The Thompson-Starratt Company is a contracting corporation, which handles almost every kind of building operation, including railway construction. The Virginia office of the company will be located in Roanoke with Michael P. Joyce, of that city, statutory agent.

An amendment to the charter of the Citizens' Building and Loan Association, No.

**Children Cry FOR FLETCHER'S CASTORIA**

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Best Lump Starch, regular 5c pkg., now 7 pks.,	25c	51 bottles Duffy's Malt Whiskey, .85c
1-lb. cans Rumsford's Baking Powder	25c	Large cans Borden's Peerless Milk, 3 cans, 25c; small size, .4c
Dried, Sun-Dried or Evaporated Apples, lb.	11c	Wood's Best N. C. Roe Herring, per dozen, 23c; per keg, \$2.75
Washington Corn Flakes, pkg.,	8c	Large Juice Lemons, dozen, .15c
3 packages Post Toasties, .25c		Best Sugar-Cured Breakfast Bacon, 15c
Full cans Best Sugar, can, .10c		Swift's Premium Sugar-Cured Hams, per pound, .17c
Winner Brand Finest Condensed Milk, 10c can; per dozen, \$1.10		Best Chipped Beef, can, .10c
Best quality 1-lb. cans Corned Beef Hash, can, .12c		Small cans Herring Roe, .06c
Brookdale California Lemon Cling Peaches, can, .10c		8 large bars Ciro Soap for, .25c
Good Quality Early June Peas, can, .10c		Large cans California Peaches, can, .15c
Peaches, can, .10c		California Canned Asparagus, can, 14c, 18c and .24c
2 cans Libby's 14-lb. cans Corned Beef, .15c		California Sherry Wine, gallon, \$1.00
Quart jars Table Peas, .10c		California Lima Beans, 3 lbs. for, .25c
Gold Medal Flour, 39c bag; barrel, \$6.10		Quart Mason Jars Queen Olives, .40c
Dunlop Flour, 39c bag; barrel, \$6.10		5-lb. pails Home-Made Preserves, .35c
Swift's Winchester Small Best Hams, lb., .16c		1-lb. cans Good Luck Baking Powder, .8c
3 cans Pocahontas Best Corn for, .25c		New Hominy and Grits, 2 lbs. for, .5c
2-lb. cans Best Tomatoes, .9c		New Seed Raisins, lb. pkg., .9c
New Sour Kraut, quart, .6c		Ceresota or Gold Medal Best Flour, 44c bag; per barrel, \$7.10
N. C. Cur Herring, 3 dozen for, .25c		Gold Medal Coffee, Java and Mocha mixture, 1-lb. cans, 30c; 5-lb. cans \$1.40
Large Irish Potatoes, peck, .95c		Baker's Cocoa, can, .10c
Burnishine Metal Polish, can, .8c		Smoked California Hams, lb., .12c
large cans, .15c		Good Creamery Butter, per lb., .32c
Good Green or Mixed Tea, lb., .30c		Absolutely Pure Leaf Lard, lb., .12½c
Best Granulated Sugar, lb., .5½c		Good Lard, per lb., .10c
Smithfield Country Hams, lb., .18c		
Va. Pride Coffee, fresh roasted, per lb., .25c		

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